



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Some authorities hold that if the plaintiff is under the direction of a third party whose negligence combines with that of the defendant in causing the injury, he cannot recover, for the negligence of the third party will be imputed to him. *Lightfoot v. Winnebago Traction Co.*, 123 Wis. 479; *Paynee v. C., R. I. & P. R. Co.*, 39 Iowa 523. This doctrine is, however, denied by the weight of authority. *La Bernina*, L. R. 12 P. D. 58; *Randolph v. O'Riordon*, 155 Mass. 331. And it is laid down by the courts that follow this rule, that the plaintiff must have exercised ordinary care under the circumstances of the case to have prevented the injury. *G. H. & S. A. R. Co. v. Kutac*, 72 Tex. 643; *Dean v. Penn. R. Co.*, 129 Pa. 514. But where the plaintiff stands in such a position to third persons that he can direct or control their movements, the negligence of such third persons is to be imputed to him. *Knightstown v. Musgrove*, 116 Ind. 121.

NEGLIGENCE—LICENSEE—USE OF FOOTPATHS.—*PHIPPS v. OREGON R. & N. Co.*, 161 FED. 376 (WASH.).—*Held*, that one who, without objecting, knowingly, and for a long time, permits the public to use his premises, for the purpose of traveling across the same upon a well-established path, cannot, without giving notice, render the same unsafe to the injury of those who have used the highway and have no notice of the changed condition without responding in damages for the resulting injury.

A licensee may be one, who, either alone or in common with the public, has for a long time used a footpath over lands of another with his knowledge and without objection. *Norfolk & W. R. R. Co. v. De-Board's Admr.*, 91 Va. 700. Many states hold that one is not liable for negligence, not willful, to a licensee using his premises. *Redigan v. Boston & Me. R. R.*, 155 Mass. 44; *Lingenfelter v. Balt. & O. S. R. R.*, 154 Ind. 49. But the weight of authority modifies this rule and holds that there is a duty attached to the owner of premises to use ordinary care to protect licensees from unusual dangers in the same created by his own positive acts. *Rooney v. Woolworth*, 68 Conn. 167; *Payne v. N. Y., N. H. & H. R. R. Co.*, 104 N. Y. 362. Where licensees use railroad premises for a footpath, the company is not restricted in the ordinary operation of its road. *Sutton v. N. Y. C. & H. R. R. Co.*, 66 N. Y. 243. But where a path has been used daily by numbers of people as licensees, the owner is bound to anticipate their presence with reasonable regard for their safety. *Pomponio v. N. Y., N. H. & H. R. R. Co.*, 66 Conn. 528.

TELEGRAPHS—CIPHER MESSAGES.—*WESTERN UNION TELEGRAPH CO. v. MERRITT*, 46 So. 1024 (FLA.).—*Held*, where the message is delivered for transmission in cipher and is unintelligible except to the sender and addressee, and no explanation is made to the operator as to its import and importance, the telegraph company is liable for transmitting it incorrectly in nominal damages only, or at most the sum paid for its transmission and delivery.

It is a general rule that damages resulting from the breach of a contract which were not contemplated by defendant, but arise from special circumstances unknown to him, cannot be compensated. Hence, in many jurisdictions, where a message does not show upon its face that it relates to transactions of importance and that pecuniary loss will probably result

unless it is promptly and correctly transmitted, as where it is written in cipher, recovery will be limited to nominal damages, or at most the price paid for sending the message. *Alheles v. Western Union*, 37 Mo. App. 554; *Cannon v. Western Union*, 100 N. C. 300. But it is also a general rule that the direct loss resulting from the breach of a contract may be recovered even though it is wholly unexpected, and, consequently, some courts have held that the direct damage resulting from breach of a contract to transmit a cipher message is the value of the information contained, and that this value and not the consideration paid for sending the message should be the measure of damages. *Western Union v. Fotman*, 73 Ga. 285; *Am. Union Tel. Co. v. Dougherty*, 89 Ala. 191.